



Comments on Discussion Paper: Financial Reporting Obligations for Small Co-operatives

As a general principle co-operatives should not be treated any differently to any other form of business with regard to regulation and reporting. Indeed, it is arguable that the only way co-operatives will ever achieve greater respect and legitimacy with other businesses, government and the community is for co-operatives to meet the same requirements that apply to other forms of business. It will then be possible to focus on the real differences that exist between the various different ownership models.

Co-operatives Victoria supports, therefore, the “relaxation of financial reporting and audit requirements for small co-operatives to recognise the lower risk associated with these entities.” (p 1)

Co-operatives Victoria agrees that National Regulations should “define the thresholds for when a co-operative, both distributing and non-distributing is required to lodge audited financial reports on the public register; that is, it will prescribe what is a small co-operative and that for “small co-operatives the National Regulations will prescribe the basic minimum requirements for reporting to members.” (p 5)

In addressing the nature and extent of this relaxation and in identifying and establishing the threshold and basic minimum financial reporting to members, however, Co-operatives Victoria believes that three fundamental guidelines should be applied:

Co-operative Values and Principles

First, co-operative legislation and regulation should be consistent with co-operative values and principles. The overriding purpose of co-operative legislation is to protect the co-operative character and structure – not to govern and manage co-operatives. Government should ensure that registered co-operatives are member owned and controlled consistent with the International Co-operative Alliance’s values and principles. Government should not, however, interfere with co-operative practice as this would undermine co-operative independence and autonomy.

Co-operative Democracy

Second, co-operative democracy requires that co-operatives must be independent and autonomous and that the members of co-operatives have the final determination on the board and management of a co-operative and it is not up to the State to interfere with this democratic process. Reporting to members should be governed by the rules of a co-operative. The Rules of a co-operative must specify financial reporting requirements but the extent and nature of these could vary between co-operatives and should be determined by members through the Rules of the co-operative.

Level Playing Field

Third, there should be a level playing field similar to small proprietary companies under the Corporations Act 2001. Small proprietary companies have been exempt from producing and lodging audited financial reports since 1995. A small proprietary company is defined as having consolidated revenue at less than \$35 million, consolidated gross assets of less than \$12.5 million and less than 50 employees. This is already provided for the Western Australia Co-operatives Act 2009 which reflects requirements for small proprietary companies with no statutory financial reporting or lodgment obligations. Members can, however, require financial reports and audits

Discussion

Consistent with these guidelines would be the ongoing requirement that: "A small cooperative would be required to lodge an annual return with the Registrar and the annual return would contain certain basic information to indicate that the co-operative was still operating and that it was solvent." (p 3) This ongoing requirement would depend, however, on the capacity of Registrars to enforce compliance when about 50% of co-operatives in Victoria already do not submit their Annual Reports and, therefore, the Registrar does not have access to any "basic information" and there has been no capacity to enforce compliance.

It is noted in the discussion paper that: "Supervision of the co-operative sector has adopted a conservative approach. Regulatory change to remove public accountability requirements for part of the sector is a significant change. Adopting a risk based financial reporting requirement will focus on the regulator's role more strategically, but will signify that the financial health of a co-operative is clearly a matter for members of a co-operative." (p 19)

The financial health of a co-operative is a matter for the members of the co-operative provided they are informed of the correct financial health of the co-operative. But, this is for the members to determine and not paternalistic legislation and regulation. But, at least in Victoria, the change would reflect a reality. The supervision of co-operatives in Victoria is conservative in Victoria in theory but the practice does not reflect and reinforce this conservative approach. There is an incapacity to supervise co-operatives.

But, changing the approach to the regulation of co-operatives should not be based on the failed capacity of Registrars to provide a consistent and appropriate supervision, and the unwillingness of governments to resource the required capacity. It should be based on the appropriate relationship between government and co-operatives.

It is also consistent with these guidelines “to empower the Registrar to require the preparation, audit and lodgment of financial reports by a small co-operative in a particular case” (p 4) provided that the basis for making this requirement is specified in the National Regulations, that any requirements under this provision to individual co-operatives must detail why the requirement is considered necessary by the Registrar and, of course, there will have to be an enforcement capacity.

It is noted in the discussion paper that “the proposal that the manner of reporting to members was to be dealt with in a co-operative’s rules was not well supported. It was submitted generally that reporting to members, especially by tabling financial information at annual general meetings was considered crucial to maintaining a democratic and communicative environment within a member based organisation. Comments indicated that co-operatives should be required to provide basic financial information to members prior to the AGM and it should not be governed only by the co-operative’s rules.” (p 3)

The 5% Majority

What is not consistent, however, is the proposal “that 5% of members may require the preparation and audit of financial reports to a more rigorous standard than is prescribed by the National Regulation.” (p 4) In a small co-operative this is a disproportionate exercise of power by a minority and is inconsistent with co-operative democracy. Five members of a 100 member co-operative can require financial reports of “a more rigorous standard” undermines co-operative democracy. In a co-operative there is one vote per member and it would be more appropriate that the 5% could initially lodge their case with the board of a co-operative for “a more rigorous standard” and that the board is required to respond by a specified time and that if the 5% remain dissatisfied, then, they can request a general meeting of members specifying their requirements within a specified time period and, then, subsequently take their demand to the Registrar who will have to examine the request and the response of the board and the general meeting and, then, make a determination with reasons.

Grant Funding

Grant funding should not be a criteria and should not trigger the Registrar to consider requiring a particular co-operative to lodge financial reports relating to the year in which the funding was received.

Instead, co-operative legislation and regulation should not limit the capacity of the providers of grants to require specified additional financial reporting that does not limit the co-operative’s independence and autonomy. Co-operative legislation and regulation, however, should require that any additional financial reporting requirements are made

known to members. Financial reporting requirements between a provider and a recipient should not otherwise be the subject of co-operative legislation and regulation.

Democracy and Paternity

It is the responsibility of the Registrar to ensure that registered co-operatives are genuine co-operatives that comply with Co-operatives National Law and regulation. It is the obligation of members, however, to ensure that the board and management of the co-operative are accountable and transparent to members. If members do not require their boards and management to be accountable and transparent, then, it is tempting to shift this obligation to the Registrar of Co-operatives. This is inappropriate for it is a member-driven failure and a regulatory response is counterproductive for it is inconsistent with co-operative values and principles.

It is critical that those who establish co-operatives, maintain co-operatives, join co-operatives and regulate co-operatives have an understanding of co-operative values and principles. Co-operative education is critical to sustaining co-operative law - including Co-operatives National Law.

5. Thresholds for public accountability by profit oriented co-operatives

Questions for comment

5.6.1 Yes - If funds are being raised by co-ops from members of the public then they must be publicly accountable for how the funds are being managed.

5.6.2 Yes - To purchase shares in a co-op you have to be a member so the normal rules applying to financial disclosures to members should apply. Debt issues are a different matter and should require public accountability.

5.6.3 Yes

6. Thresholds for public accountability by not for profit co-operatives

Section 6 discusses not for profit co-ops and for profit co-ops.

CNL distinguishes between distributing and non-distributing co-operatives and this terminology should have been used in the discussion paper rather than not for profit and for profit co-operatives.

6.2 Questions for Comment

6.2.1 Question 6.2.1 would be more meaningful if it omitted the words "not for profit

6.2.2 No.

6.2.3 All co-operatives should (must) make a profit (in the sense of income exceeding expenses) to remain sustainable. We therefore prefer the "distributing" and "non-distributing" categories being used rather than "for profit" and "not for profit".

6.2.4 Yes - It should be a threshold criteria, whether grants are received or not.

7. Other general considerations

7.3 Questions for comment

7.3.1 Yes - and the threshold should relate to turnover (volume of business). Members could still request an audit (irrespective of size) if they wish.

7.3.2 For small co-ops it should result in savings not costs. For the small co-ops there would be a considerable saving in expense as external audits are expensive.

7.3.3 This would generally relate only to small co-ops and not having to pay expensive audit fees should help them to remain financially viable.

8, Reporting to members by small co-operatives

8.1 Questions for comment

8.1.1 P & L Account and Balance Sheet - the Balance Sheet is the most important financial report as it reflects the financial health of a co-op.

8.1.2 Yes

8.1.3 The AASB's standard should be sufficient for small co-ops

8.1.4 Have not had time to form a view.

8.1.5 Not familiar with that document, so cannot comment within the time available.

David Griffiths

Secretary

Co-operative Federation of Victoria Ltd

71 Franciscan Avenue, Frankston VIC 3199

Telephone: 03 97856704

Email: cfv@australia.coop

Web site: <http://www.victoria.coop>

5 December 2011